

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JACQ AUS L. MARTIN,

Plaintiff,

vs.

NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES, et al.,

Defendants.

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8:06cv681

MEMORANDUM AND ORDER

This matter is before the court on filing no. 6, the Motion for Reconsideration filed by the plaintiff, JacQaus L. Martin. The court denied the plaintiff's application to proceed in forma pauperis ("IFP") on the basis of 28 U.S.C. § 1915(g), the "three strikes" provision of the Prison Litigation Reform Act ("PLRA"), and the court gave the plaintiff a deadline to pay the \$350 filing fee. The deadline expired approximately a month ago, and the plaintiff has not paid the filing fee. The plaintiff's Motion for Reconsideration does not adequately allege a factual basis for the only exception to the "three strikes" rule, i.e., "imminent danger of serious physical injury," that is, prospective danger, not past events. The plaintiff speculates that he is at risk of attack from prison guards because of his pending litigation in the state and federal courts. However, many hundreds of Nebraska inmates have complaints and petitions on file in the state and federal courts, and the plaintiff has failed to explain why he, alone or in particular, faces a risk of imminent injury because of his litigation.

THEREFORE, IT IS ORDERED:

1. That filing no. 2, the plaintiff's Application to Proceed In Forma Pauperis, was denied in filing no. 5, and filing no. 6, the plaintiff's Motion for Reconsideration, is also hereby denied; and

2. That judgment will be entered dismissing this case without prejudice.

December 15, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge